



**US Army Corps
of Engineers**

Vicksburg District
4155 Clay Street
Vicksburg, MS 39183-3435



Public Notice

FILE NO.:	<u>General Permit - 39</u>
EVALUATOR:	<u>Ms. Anne Woerner</u>
PHONE NO.:	<u>(601) 631-5298</u>
FAX NO.:	<u>(601) 631-5459</u>
DATE:	<u>June 2, 2003</u>
EXPIRATION DATE:	<u>July 2, 2003</u>

FOR: DISCHARGE OF DREDGED AND FILL MATERIAL INTO WATERS OF
THE UNITED STATES IN CONJUNCTION WITH EMERGENCY STREAM
BANK PROTECTION

WHERE: REGULATORY JURISDICTION OF THE VICKSBURG DISTRICT

BY WHOM: DISTRICT ENGINEER, VICKSBURG DISTRICT, ON BEHALF OF THE
GENERAL PUBLIC

Interested parties are hereby notified that the U.S. Army Corps of Engineers, Vicksburg District, the Arkansas Department of Environmental Quality, the Louisiana Department of Environmental Quality and the Mississippi Department of Environmental Quality are considering reissuance of a General Permit and State Water Quality Certifications for activities described herein. Comments should be forwarded to the Vicksburg District, ATTN: CEMVK-OD-FP and the appropriate State Agency listed below. Comments must reach these offices by the expiration date cited above.

In Arkansas, comments should be directed to the Arkansas Department of Environmental Quality at Post Office Box 8913, Little Rock, Arkansas 72219-8913.

In Louisiana, a water quality certification is required in accordance with statutory authority contained in the Louisiana Revised Statutes of 1950, Title 30, Chapter 11, Part IV, Section 2074 A(3) and provisions of Section 401 of the Clean Water Act (P.L. 95-217). Comments should be forwarded to the Louisiana Department of Environmental Quality, Office of Water Resources, Water Pollution Control Division, Post Office Box 82215, Baton Rouge, Louisiana 70884. The Louisiana Department of Environmental Quality has additional information on file in their office in Baton Rouge that may be inspected at any time between 8:00 a.m. and 4:30 p.m. weekdays. Copies may be obtained from the Louisiana Department of Environmental Quality upon payment of the cost of printing. The Louisiana Department of Environmental Quality will make a final decision on the water quality certification pertaining to this General Permit within 30 days after expiration of this notice.

In Mississippi, comments should be directed to the Mississippi Department of Environmental Quality, Office of Pollution Control at Post Office Box 10385, Jackson, Mississippi 39289-0385.

The U.S. Army Corps of Engineers, Vicksburg District, is proposing to conduct regulated activities associated with the discharge of dredged and fill material into waters of the United States. These activities include minor new construction and emergency stream bank protection work such as that authorized under Section 14 of the 1946 Flood Control Act, as amended, and Public Law 99, 84th Congress, as amended by Section 206 of the Flood Control Act of 1962. The purpose of work authorized under Section 14 is to repair flood or erosion damage, which endangers highways, highway bridge approaches, and similar, essential, and important public works, or nonprofit public facilities. Emergency activities pursuant to Public Law 99 include the following work whenever and wherever required: flood emergency preparation, flood fighting and rescue operations, emergency repair and restoration of flood control works such as levees, emergency protection of federally authorized hurricane and shore protection works, and the repair or restoration of Federal hurricane or shore protection structures damaged or destroyed by wind, wave, or water action of other than an ordinary nature.

The above-described activities and other similar work would be undertaken on a recurring basis at various locations within the Vicksburg District's regulatory jurisdiction in waters of the United States in Mississippi, Arkansas, and Louisiana. A map of the Vicksburg District (enclosure 1) and typical drawings (enclosure 2) are attached.

This proposed General Permit contains certain limitations intended to protect the environment and natural and cultural resources. Conformance with conditions contained in the General Permit does not necessarily guarantee authorization under this General Permit. In cases where the District Engineer considers it necessary, applications will be required for individual permits. Construction, dredging, or fill operations not specifically authorized by this General Permit are prohibited unless authorized by a separate permit.

This action is being taken pursuant to Federal regulations printed in the Federal Register on November 13, 1986, concerning permits for activities in waters of the United States. These regulations state the U.S. Army Corps of Engineers' responsibility for regulating structures or work in or affecting waters of the United States under Section 10 of the Rivers and Harbors Act of 1899 (30 Stat. 1151; 33 U.S.C. 403) and Section 404 of the Clean Water Act (33 U.S.C. 1344).

General Permits may be issued for a category or categories of activities when: (1) those activities are substantially similar in nature and cause only minimal individual and cumulative environmental impacts; or (2) the General Permit would result in avoiding unnecessary duplication of the regulatory control exercised by another Federal, State, or local agency, provided it has been determined that the environmental consequences of the action are individually and cumulatively minimal. The determination that the proposed activities comply with the requirements for issuance of General Permits was made using information which is available for inspection at the offices of the Vicksburg District's Regulatory Branch at 4155 Clay Street, Vicksburg, Mississippi.

In compliance with requirements of Section 401 of the Clean Water Act, the Vicksburg District will obtain water quality certification from the Mississippi Department of Environmental Quality, the Arkansas Department of Environmental Quality, and the Louisiana Department of Environmental Quality stating that the work authorized by the proposed General Permit will not violate applicable provisions of Sections 301, 302, 306, and 307 of the Act.

REQUEST FOR AUTHORIZATION UNDER THE GENERAL PERMIT: IN ORDER TO BE AUTHORIZED BY THIS GENERAL PERMIT, PERSONS PROPOSING THE WORK ARE REQUIRED TO SUBMIT TO THE DISTRICT ENGINEER, IN WRITING, THE FOLLOWING INFORMATION AT LEAST 45 DAYS PRIOR TO CONDUCTING THE WORK:

a. State the number of the General Permit under which the work is to be conducted. (General Permit 39)

b. Statement that the work will be conducted in compliance with the terms and conditions of the General Permit and will not adversely impact adjoining properties.

c. Location map showing the proposed worksite (including section, Township, Range, County or Parish, and State).

d. Drawing of any proposed structures including dimensions and amounts of excavated and fill material in cubic yards.

e. A brief description of the present condition of the project site.

f. A brief description of the proposed activity, its purpose, and intended use.

g. Estimated starting and completion dates of construction.

h. Name, mailing address, and telephone number of person/agency applying for authorization.

Upon receipt of this information, the District Engineer will evaluate the proposal and advise the inquiring party, in writing, either that the work is authorized under the General Permit; will request additional information, if needed; or will advise that the proposed activity will require an individual permit.

Special Conditions:

a. The bank stabilization shall not extend into the affected river or stream as to interfere with navigation (including recreational boating) or adversely impact the flow-carrying capacity of the affected stream.

b. Discharge of dredged or fill material for site preparation and construction shall not exceed that necessary to complete the project. Any excess material shall be disposed of on an upland site.

c. Material used for fill shall be obtained from an upland source and must be nonpolluting in conformance with f. below.

d. No activity which may adversely impact a site listed in or eligible for listing in the National Register of Historic Places shall be allowed by this General Permit. Additional material shall not be taken from a known historical or archaeological site such as an Indian Mound. If the permittee, during prosecution of work authorized herein, encounters a previously unidentified archaeological or other cultural resource within the area subject to Department of the Army jurisdiction, he shall immediately notify the District Engineer. The District Engineer, in consultation with the appropriate State Historic Preservation Officer and the Tribal Archaeologists, will comply with 33 CFR 325, Appendix C, paragraph 11 (Historic Properties Discovered During Construction).

e. The discharge shall not occur in a component of the National Wild and Scenic River System or in a component of a State Natural and Scenic River System without the appropriate Federal or State authorization.

f. Dredged, excavated, or fill material used for construction shall be nonpolluting material in accordance with the Environmental Protection Agency Guidelines for the Discharge of Dredged or Fill Material found in 40 CFR 230.

g. All construction activity shall be performed in a manner that will minimize increased turbidity of the water in the work area and otherwise avoid adverse effects on water quality and aquatic life especially during fish spawning seasons.

h. The discharge shall not be located so as to adversely affect a public water supply intake or a national fish hatchery intake.

i. The discharge shall not contain unacceptable levels of pathogenic organisms in areas used for sports involving physical contact with the water.

j. The discharge shall not occur in areas of concentrated shellfish production.

k. No activity that is likely to adversely affect Federally listed threatened or endangered species, or that is likely to destroy or adversely modify the critical habitat of such species, is authorized under this General Permit.

l. No work shall be performed within the boundaries of a National or State wildlife refuge, game management area, or similar area without the specific authorization of the facility manager or an appropriate managing agency official.

m. Performing any work within 1,500 feet of a known wading bird or seabird rookery during the nesting period for the species comprising that rookery shall be avoided to the extent possible. If the proposed work falls in or near a rookery, the application shall so state.

n. If contaminants are known to be at a particular project site, the State Department of Environmental Quality Control shall be notified to prevent the suspension of contaminated sediments.

o. The discharge shall not occur in a Coastal Zone Management area without the appropriate State authorization. The coastal zone approval shall be submitted with the request for authorization under this General Permit. In order to be authorized by this General Permit for work in Hancock County, Mississippi, or St. Tammany Parish, Louisiana, persons proposing work are required to send complete plans to the appropriate state at one of the following addresses:

Mississippi Department of Marine Resources
1141 Bayview Avenue
Suite 101
Biloxi, Mississippi 39530

Louisiana Department of Natural Resources
Coastal Management Division
Post Office Box 44487
Baton Rouge, Louisiana 70804-4487

p. The need for mitigation will be determined on a case-by-case basis and may be required to offset impacts to wetland functions and values.

General Conditions:

a. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition b. below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this authorization from this office, which may require restoration of the area.

b. If you sell the property associated with the authorization under this General Permit, you must contact this office so that the authorization can be transferred to the new owner.

c. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

d. This permit does not obviate the need to obtain other Federal, State, or local authorizations required by law.

e. This permit does not grant any property rights or exclusive privileges.

f. This permit does not authorize any injury to the property or rights of others.

g. This permit does not authorize interference with any existing or proposed Federal project.

h. In issuing this permit, the Federal Government does not assume any liability for the following:

(1) Damages to the permitted project, or uses thereof, as a result of other permitted or unpermitted activities or from natural causes.

(2) Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

(3) Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

(4) Design or construction deficiencies associated with the permitted work.

(5) Damage claims associated with any future modification, suspension, or revocation of this permit.

i. In issuing individual authorizations under this General Permit, the Government will rely on the information and data which the permittee provides in connection with his permit application. If, subsequent to the authorization, such information and data prove to be false, incomplete, or inaccurate, this authorization may be modified, suspended, or revoked, in whole or in part, and/or the Government may, in addition, institute appropriate legal proceedings.

Further Information:

a. Additional copies of this Public Notice are available upon request from this office. Requests may be addressed to: USACE, Vicksburg District, ATTN: Regulatory Branch, 4155 Clay Street, Vicksburg, Mississippi 39183-3435.

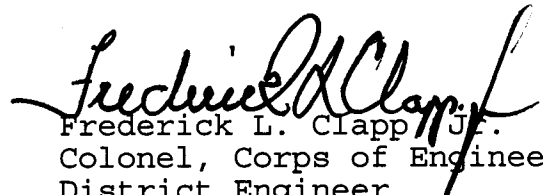
b. The decision whether to allow construction under this general authorization will be based on an evaluation of the probable impacts including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people.

c. The U.S. Army Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other interested parties in order

to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

d. Any person may make a written request for a public hearing to consider this proposed General Permit. This request must be made by the expiration date of this public notice and must clearly state why a hearing is necessary. Any individual or agency may comment on the project described in this notice; however, failure to comment will be interpreted to mean that there is no objection to the proposed General Permit. All comments received will be evaluated during the review process of this proposed General Permit.

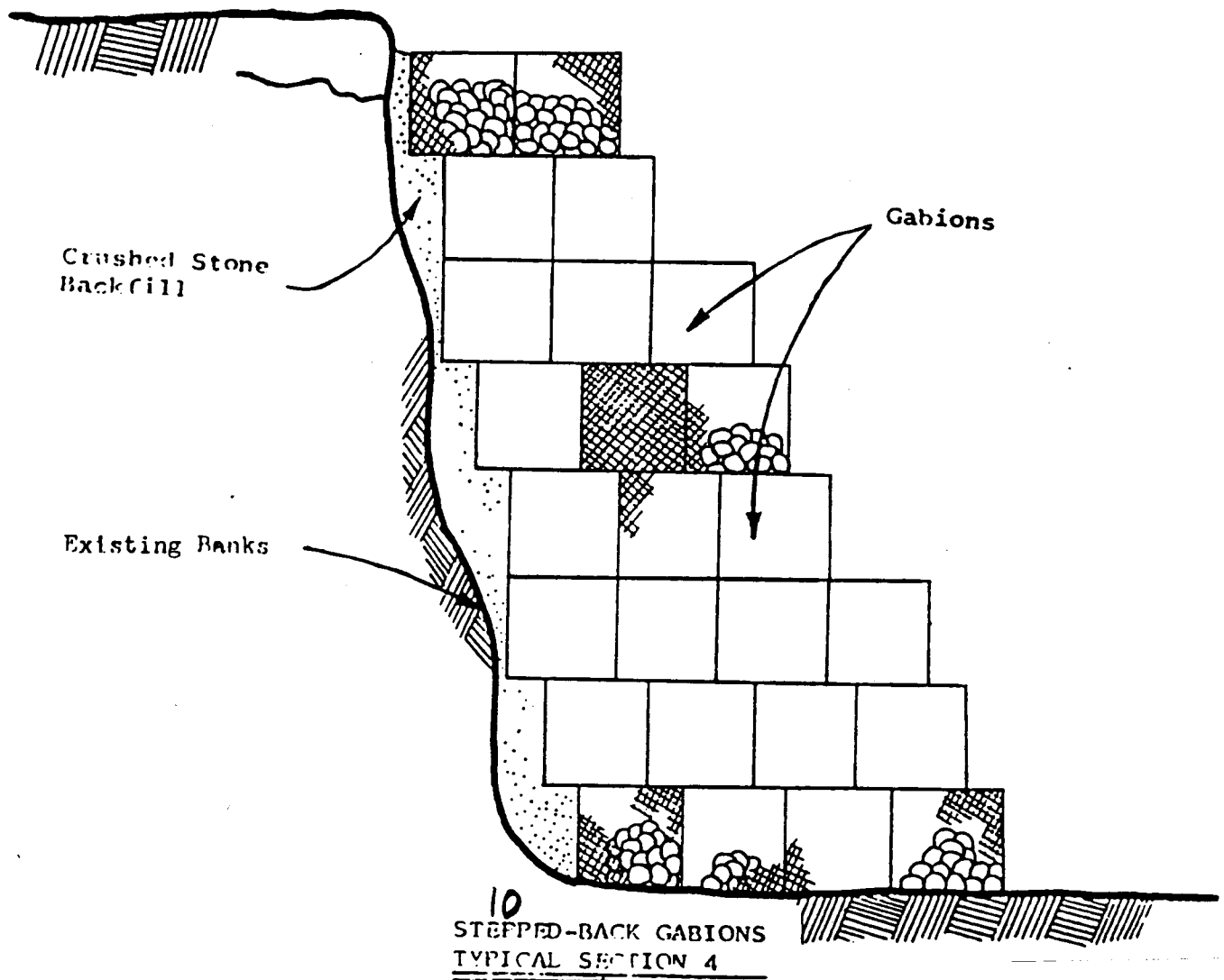
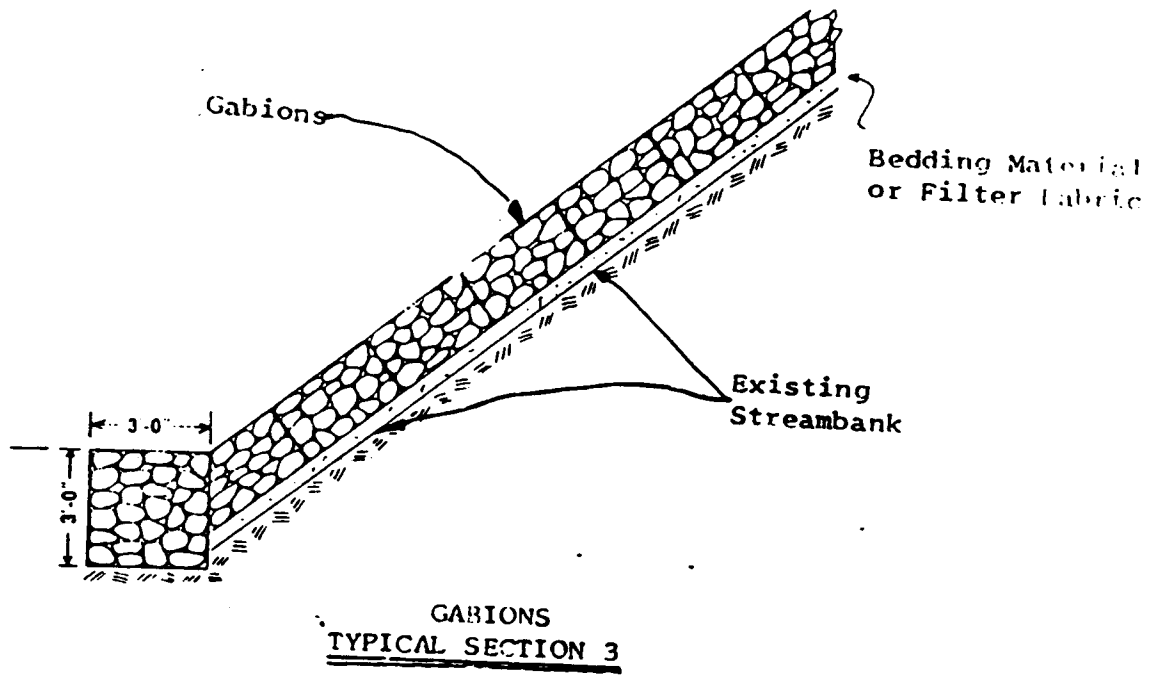
e. Please bring this announcement to the attention of anyone you know who might be interested in this matter. Anyone wishing to make comments may communicate with us at the following address: USACE, Vicksburg District, ATTN: Regulatory Branch, 4155 Clay Street, Vicksburg, Mississippi 39183-3435.

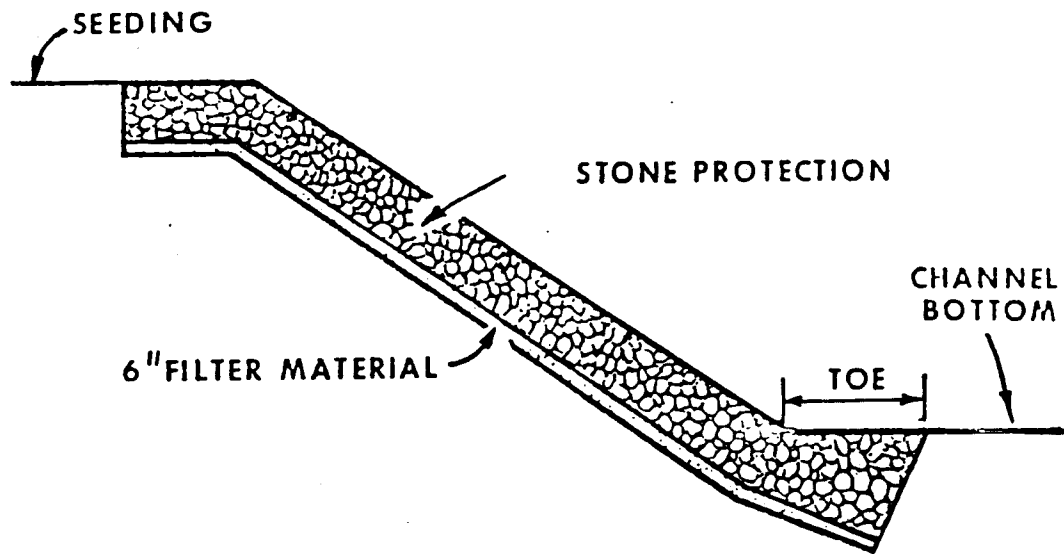

Frederick L. Clapp Jr.
Colonel, Corps of Engineers
District Engineer

Enclosures

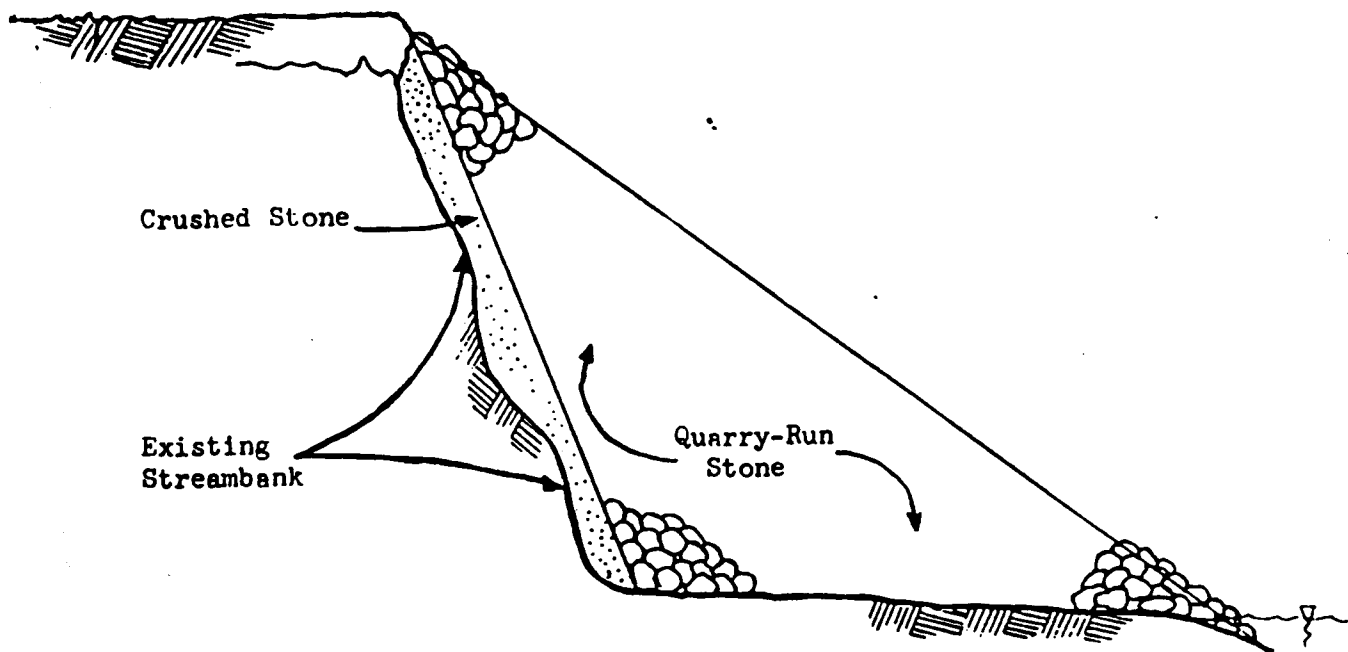
GENERAL PERMIT - 39

ENCLOSURE 1



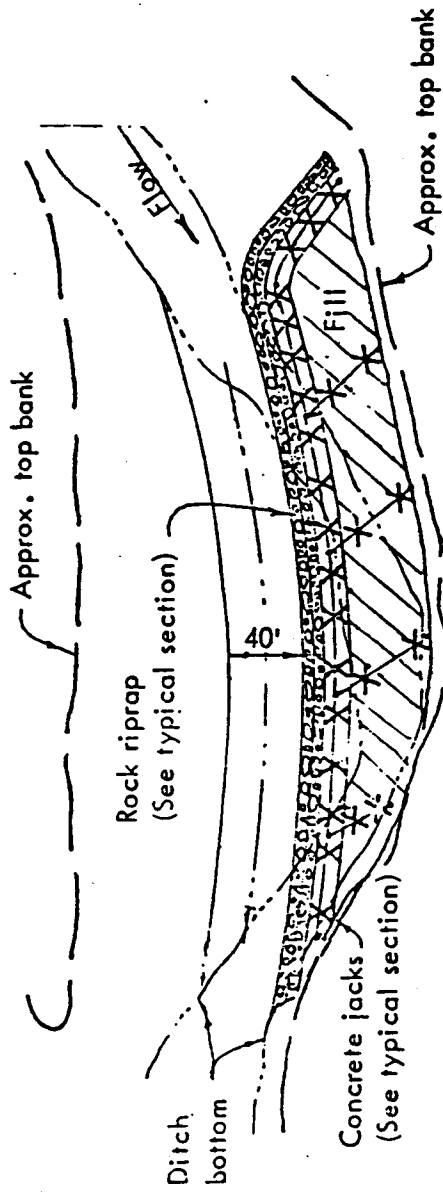


RIPRAP
TYPICAL SECTION 1



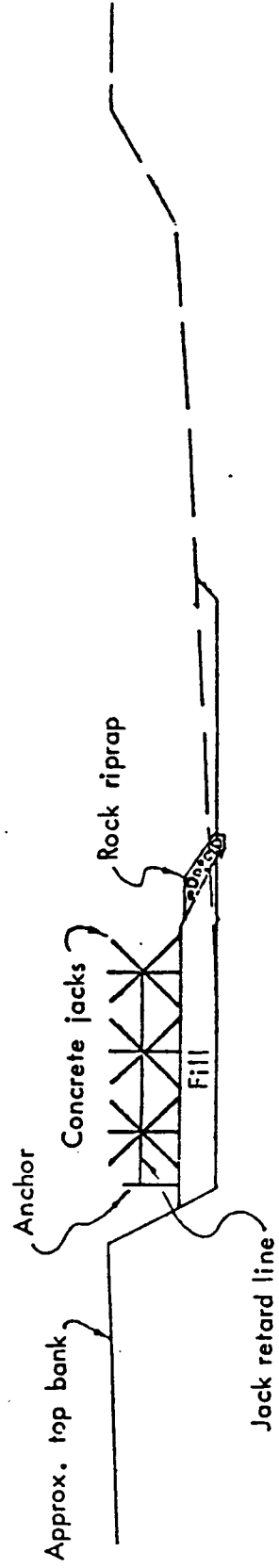
QUARRY-RUN STONE
TYPICAL SECTION

GENERAL PERMIT - 39

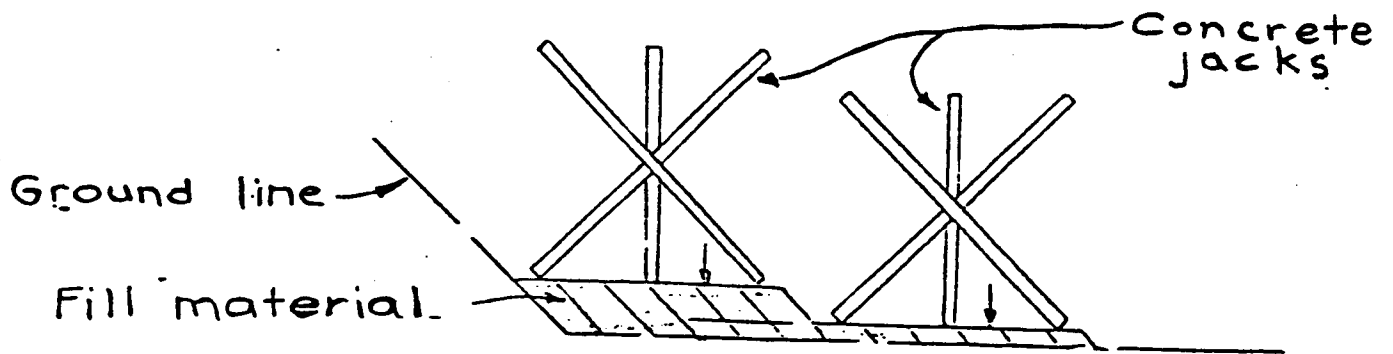


PLAN

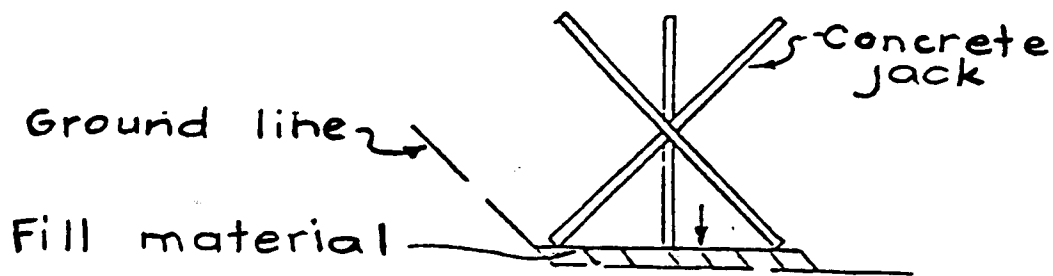
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TYPICAL SECTION - ROCK RIPRAP AND CONCRETE JACKS
(No Scale)



TYPICAL SECTION
DOUBLE JACKS



TYPICAL SECTION
SINGLE JACK